

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FEDERAL TRADE COMMISSION,

Plaintiff

v.

DIRECT MARKETING CONCEPTS, INC., d/b/a
TODAY'S HEALTH and DIRECT FULFILLMENT,
ITV DIRECT, INC., d/b/a DIRECT FULFILLMENT,
DONALD W. BARRETT,
HEALTHY SOLUTIONS, LLC d/b/a DIRECT
BUSINESS CONCEPTS,
HEALTH SOLUTIONS, INC.,
ALEJANDRO GUERRERO, a/k/a ALEX GUERRERO,
MICHAEL HOWELL, GREG GEREMESZ,
TRIAD ML MARKETING, INC., KING MEDIA, INC.,
and ALLEN STERN,
Defendants.

Civ. No. 04-11136-GAO

FIRST AMENDED JOINT STATEMENT PURSUANT TO LOCAL RULE 16.1

Pursuant to Federal Rules of Civil Procedure 26(f) and Local Rule 16.1(d), the undersigned parties submit the following first amended joint statement setting forth proposed modifications to the joint discovery plan and schedule for the filing of motions. These modifications – which set forth dates that are five weeks later than the dates previously submitted – are necessary in light of the current pace of discovery and the Federal Trade Commission's November 30, 2004 motion to amend the complaint to name a new liability defendant and three new relief defendants.

I. DISCOVERY

A. Joint Discovery Plan

1. Plaintiff shall make its disclosures concerning experts pursuant to Fed. R. Civ. P. 26(a)(2) on or before **March 9, 2005** and defendants shall make

such disclosures on or before **April 6, 2005**. Plaintiff shall make its disclosures concerning rebuttal experts on or before **May 9, 2005**.



2. The cut-off date for fact and expert discovery shall be **June 21, 2005**.
3. Pursuant to Fed. R. Civ. P. 26(a)(3) and Local Rule 16.5(c), the parties shall serve and file their pretrial disclosures no later than 30 days prior to the final pretrial conference.

II. FILING OF MOTIONS

- A. The final date for filing dispositive motions shall be **July 21, 2005** (30 days after the close of discovery).
- B. Oppositions to any dispositive motions must be filed no later than 30 days after the filing of the relevant motion.
- C. The final date for filing motions in limine shall be **August 22, 2005** (60 days after the close of discovery).

Dated: January 13 , 2005

Respectfully submitted,

<p>Daniel Kaufman Kial S. Young (Mass. Bar No. 633515) Edward Glennon Federal Trade Commission 600 Pennsylvania Avenue, N.W. Mail Drop NJ-3212 Washington, DC 20580 Tel: (202) 326-2675/3525/3126 Fax: (202) 326-3259</p> <p>ATTORNEYS FOR PLAINTIFF</p>	<p>Peter S. Brooks, BBO #05890 Christopher F. Robertson, BBO #642094 Susan W. Gelwick, BBO #567115 SEYFARTH SHAW LLP World Trade Center East Two Seaport Lane, Suite 300 Boston, MA 02210 Tel: (617) 946-4800 Fax: (617) 946-4801</p> <p>ATTORNEYS FOR DIRECT MARKETING CONCEPTS, INC.; ITV DIRECT, INC.; and DONALD W. BARRETT</p>
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CERTIFICATE OF SERVICE

My name is Daniel Kaufman and I am an attorney with Federal Trade Commission. On January 13, 2005, copies of First Amended Joint Statement Pursuant to Local Rule 16.1 were served via First Class Mail as follows:

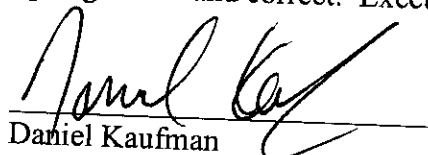
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I declare under penalty of perjury that the foregoing is true and correct. Executed this January 13, 2005 at Washington, D.C.


Daniel Kaufman